

**NATIONAL CENTER FOR LAW
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November 16, 2010

Re: Docket ID: FEMA-0062; Request for Comments on Disaster Temporary Housing
Operational Guide

Dear Sir/Madam:

The National Center for Law and Economic Justice (NCLEJ) and the Advocacy Center of Louisiana are jointly submitting these comments on FEMA's draft Disaster Temporary Housing Operational Guide.

NCLEJ works through a variety of means, including litigation and policy advocacy, to ensure that low-income individuals receive the government programs and services to which they are entitled. One focus of our work is ensuring that low income individuals with disabilities have meaningful access to programs and services, and an equal opportunity to participate in and benefit from government programs. The Advocacy Center is the agency designated pursuant to the Developmental Disabilities Assistance and Bill of Rights act of 2000, 42 U.S.C. Sec. 41 *et seq.*; the Protection and Advocacy for Individuals with Mental Illness Act, 42 U. S. C. Sec. 15001 *et seq.*, and the Protection and Advocacy of Individual Rights program, 29 U.S.C. Sec.794e, to advocate for the rights of people with disabilities in Louisiana.

In 2006, after Hurricanes Katrina and Rita, NCLEJ and the Advocacy Center filed a lawsuit against FEMA for failing to provide displaced people with disabilities with accessible trailers.¹ The lawsuit settled, and FEMA agreed to take a number of actions to meet the accessible housing needs of class members in that lawsuit. We do not want FEMA to repeat the mistakes that led to the filing of that lawsuit in future disasters. To avoid repeating those mistakes, FEMA must have comprehensive policies and plans for meeting the temporary housing needs of individuals with disabilities after disasters.

¹*Brou v. FEMA*. No. 06-0838 (E.D. La., filed February 17, 2006).

FEMA needs a comprehensive disaster temporary housing policy that addresses the needs of people with disabilities --- the Disaster Temporary Housing Operational Guide is not a comprehensive policy.

FEMA's general failings in the provision of temporary housing assistance to displaced persons after Hurricanes Rita and Katrina are well known.² There is no dispute that FEMA was ill prepared to meet the temporary housing needs of displaced persons, that its housing programs were poorly administered, and that inadequate administration exacerbated the chaos and deprivation experienced by hundreds of thousands of people affected by the hurricanes.

What has received less public attention, however, is FEMA's failure to meet the temporary housing needs of displaced persons with disabilities. After Hurricanes Katrina and Rita, thousands of displaced persons with disabilities were left stranded in shelters, forced into institutions, or given trailers without ramps, with inaccessible bathrooms, inadequate room to maneuver wheelchairs, and other accessibility barriers. FEMA had no process in place to determine whether displaced persons had disabilities and needed accessible trailers, and no system to meet their needs. Many people with disabilities were given inaccessible trailers. Others were given trailers that FEMA claimed were "handicapped friendly" that were not usable by most people with disabilities.

Given the magnitude of the problem and a clear legal mandate for FEMA to operate housing programs that are accessible to and usable by people with disabilities, NCLEJ and Advocacy Center in Louisiana filed a lawsuit against FEMA on behalf of people with disabilities displaced by Hurricane Katrina or Rita, asserting that FEMA's failure to provide people with disabilities with accessible trailers violated federal civil rights laws and the Stafford Act. As part of the settlement in the lawsuit, FEMA sent notices informing those who applied for FEMA housing informing about the right to accessible trailers, created a hotline for people with disabilities to make their need for accessible housing known to FEMA, created screening questions to determine what accessibility features people needed, and provided accessible trailers to those who needed them. The settlement also required FEMA to put a minimum number of accessible trailers on group trailer sites and make common areas of those sites accessible.³

As the actions required by the settlement applied only to the class of displaced persons in the lawsuit (i.e., persons affected by Hurricanes Katrina and Rita), it is imperative that FEMA develop a clear, comprehensive, and detailed policy for how it will meet the temporary housing needs of people with disabilities in future disasters. Unfortunately, the policies and other documents we have obtained from FEMA fall short, and raise serious questions about whether

² See, e.g., U.S. Senate, Ad Hoc Committee on Disaster Recovery, Committee on Homeland Security and Governmental Affairs, *Far From Home: Deficiencies in Federal Disaster Housing Assistance After Hurricanes Katrina and Rita and Recommendations for Improvement* (February 2009) ("Far From Home").

³ *Brou v. FEMA*. No. 06-0838 (E.D. La., settlement agreement entered Sept. 26, 2006).

FEMA – more than five years after Katrina, has adequate plans in place for meeting the temporary housing needs of *anyone*.

Over the last few years, FEMA has produced mountains of paper, and many different versions of policy documents, on temporary housing for people affected by disasters, including individuals with disabilities. Most of these documents are extremely general, and many lack any discussion of important topics that should be addressed in such a comprehensive temporary housing policy. Over time, some of FEMA’s policy documents on housing have gotten *less* specific about how FEMA will meet the temporary housing needs of people with disabilities after a disaster. Further, the more housing policy documents FEMA develops, the less clear it is which ones constitute FEMA’s current policies.

The draft Guide does nothing to solve these problems. Its title is a misnomer, as it is not a guide and does not contain detailed information on operations. It is extremely general, and on issues it mentions, provides far *less* detail than previously released FEMA documents on temporary housing. It is completely silent on many of the topics that should be addressed in such a policy or guide. On November 11, 2010, Steven Miller, the Chief of the Housing Assistance Section at FEMA, characterized the draft Guide as a “quick overview” of what FEMA is doing. At this late date, FEMA should not be issuing “quick overviews” of its housing policies – it should be issuing a comprehensive, detailed policy.

Our specific concerns with the draft Guide are discussed below.

The baseline inventory of temporary housing units in the draft Guide is inadequate and FEMA has not explained the rationale for that number.

FEMA has stated in previous temporary housing policy documents that the agency wants to be ready for a Katrina-level event,⁴ and Craig Fugate, FEMA’s current Administrator, stated in the press release about draft Guide that “[a]t FEMA, we don’t plan for easy, we plan for real.”⁵ Yet the number of temporary housing units that the draft Guide states that FEMA will have on hand for a future disaster (the “baseline inventory”) does not appear to bear any relationship to the number of units needed in a Katrina-sized disaster.

FEMA’s general approach, articulated in the draft Guide and numerous other documents, is to have a baseline number of housing units on hand that can be deployed immediately in a disaster (i.e., a baseline inventory⁶), and have standing contracts with temporary housing manufacturers that can produce additional units on request. It is our understanding that FEMA

⁴ *FEMA Recovery Policy 1003: Temporary Housing Inventory Requirements* (February 27, 2007) (hereinafter “2007 Interim Policy”).

⁵ “FEMA Issues New Guidance to Support People with Disabilities During a Disaster,” Press Release, November 3, 2010, available at www.fema.gov/news/newsrelease.fema?id=53174.

has chosen this approach because FEMA does not know the total number of units that will be needed in future disasters, and because of the cost involved in purchasing, storing, and maintaining, a large number of temporary units, some of which may never be needed or used. Given this approach, it is incumbent on FEMA to make a reasoned decision regarding the number of units it will have on hand, and the number will order if necessary, and to explain the basis for this decision to the public.

The draft Guide indicates at page 6 that FEMA's baseline inventory is 4,000 housing units, but it contains no explanation of how FEMA arrived at this number. After Katrina and Rita, FEMA purchased over 145,000 trailers and housed over 120,000 families in those units.⁶ Thus, number of units FEMA intends to have on hand for future disasters would meet less than 10% of Katrina-sized disaster needs. In 2007, FEMA's target baseline temporary housing inventory was 13,500 housing units.⁷ FEMA has offered no explanation of why the current baseline target is less than one-third of the number FEMA thought in 2007 it needed to have on hand.

In deciding how many housing units to have in the baseline inventory, FEMA needs to take into account the following: (1) the number and type of each unit (accessible and not) that FEMA expects to be available for purchase on the commercial market; (2) how long it would take FEMA to acquire and deliver those units; (3) how long it would take manufacturers under contract with FEMA to manufacture additional units; and (5) how quickly those units can be deployed. The draft Guide is completely silent on these issues, but information in other FEMA documents raises serious questions about whether having 4,000 units on hand is adequate.

FEMA's 2007 Interim Policy states that FEMA can deploy 150 trailers a day during the first 90 days after a disaster. It does not say what the pace of deployment could be after 90 days. At a pace of 150 trailers a day, it would take FEMA more than two years to deploy the 120,000 trailers FEMA distributed after Katrina. In June 2010, a FEMA official testified before Congress that its five housing manufacturers could each produce 150 housing units per week within three weeks of a request from FEMA. At that pace, it would take manufacturers under contract with FEMA over three years to produce all of the temporary housing units that deployed after Katrina. If FEMA has 4,000 units on hand, this would shorten the total time by less than two months. Thus, from information culled from other FEMA documents, it appears that having only 4,000 units on hand will not be adequate after a major disaster.

The draft Guide does not contain a general commitment to ensure that the temporary housing needs of displaced persons with disabilities will be met.

After Katrina, Congress took steps to prevent FEMA from overlooking the post-disaster

⁶ *Far From Home*, at 106.

⁷ 2007 Interim Policy.

housing needs of people with disabilities again. In 2007, Congress amended the Stafford Act to require FEMA's National Disaster Housing Strategy (NDHS) to "ensure that a sufficient number of housing units are provided for individuals with disabilities."⁸ FEMA has not complied with this mandate. The NDHS does not discuss or explain how FEMA will ensure that there are a sufficient number of accessible units are provided to people with disabilities.⁹

Unfortunately, the draft Guide does not fill in the gap left in the NDHS. It does not even contain a general statement that people with disabilities who need an accessible temporary housing unit will be provided with one. This omission is a giant step backward by FEMA. FEMA's 2006 interim housing policy for people with disabilities stated that individuals with qualified disabilities eligible for temporary housing assistance will be provided accessible housing units or a standard units with modifications.¹⁰ Given FEMA's legal obligation to do this, the agency's unwillingness to include such a statement the draft Guide is troubling.

The draft Guide does not specify the number or percentage of housing units in FEMA's inventory that must be accessible to people with disabilities.

The draft Guide states at page 6 that the 4,000 temporary housing units FEMA intends to have on hand will be "composed of traditional and Uniform Federal Accessibility Standards (UFAS) manufactured homes, park models, and travel trailers," (p. 6) but it is no more specific than that. The draft does not identify a minimum number of percentage of those units must meet be accessible. This silence is another step in the wrong direction. FEMA's 2007 temporary disaster housing policy for people with disabilities required 2,500 housing units in FEMA's inventory to be accessible.¹¹ FEMA's unwillingness to say anything specific on this in the draft Guide is troubling.

FEMA's silence in the draft Guide is also misleading, as FEMA currently has a position on the issue that did not disclose in the draft Guide. Government transparency and accountability require, at a minimum, that this information should be included in the Guide and the draft, so the public is aware of it and has an opportunity to comment on it.

In June 2010, the Director of FEMA's Office of Disability Integration and Coordination testified before Congress that 400 of the 4,000 housing units in FEMA's baseline inventory are

⁸ 6 U.S.C. § 772(d)(5) (October 4, 2006).

⁹ Federal Emergency Management Agency, *National Disaster Housing Strategy* (January 16, 2009), pp. 59-60.

¹⁰ *FEMA Interim Recovery Policy 9452.1 (Interim): Temporary Housing Units for Eligible Disaster Victims with a Disability* (October 13, 2006) (hereinafter "2006 Interim Policy").

¹¹ 2007 Interim Policy.

accessible.¹² In fact, even that figure appears to be inflated. FEMA's monthly Temporary Housing Unit Monthly Readiness Reports indicate that from January through September of 2010, FEMA's "preferred baseline inventory" of temporary housing units is only 350 accessible housing units,¹³ or 8 percent of the total number in the baseline inventory. This is not sufficient. Many disasters disproportionately affect low-income populations. As FEMA has recognized, people with disabilities are more likely to be poor.¹⁴ The federal government has estimated that 12 to 14 percent of the population affected by disasters have disabilities generally, and after Katrina, the figure was closer to 18 to 20 percent.¹⁵ At one point FEMA considered requiring at least 50 percent of the housing units in FEMA's inventory to be accessible to people with disabilities. As accessible housing units can be used by people without disabilities, and as some temporary housing units initially provided to households that do not need an accessible unit may be reused or sold, there is little downside to requiring a large percentage of these units to be accessible when initially manufactured/purchased by FEMA. Whatever the appropriate number of percentage of accessible housing units in FEMA's inventory, there are serious questions about whether having only 350 accessible housing units on hand is adequate.

On a November 11, 2010 conference call with low income housing advocates, Steven Miller suggested that having a policy that requires FEMA to have on hand or to order a minimum number of percentage of temporary housing units that are accessible to people with disabilities would *limit* FEMA's flexibility and ability to meet the needs of individuals with disabilities. We do not agree. A minimum is a floor, not a ceiling. Without a policy requiring a minimum number of units on hand to be accessible, and without a general policy statement that FEMA will meet the accessible housing needs of individuals with disabilities who need temporary housing, there is nothing in the draft Guide requiring FEMA to have *any* accessible units on hand.

If FEMA needs to order or purchase additional housing units beyond those in the baseline inventory, the draft Guide does not require a minimum number or percentage to be accessible to people with disabilities.

The draft Guide, at page 6, and other FEMA documents, indicate that FEMA has contracts with temporary housing manufacturers to manufacture additional temporary housing units if more units are needed, but the Guide does not say anything regarding the accessibility of

¹² Testimony of Marcie Roth, Director, Office of Disability Integration and Coordination, Federal Emergency Management Agency, before House Committee on Homeland Security (June 15, 2010), p. 10.

¹³ *How-To Guide for the THU Readiness Reports*, January 23, 2010, February 23, 2010, March 23, 2010, April 23, 2010, June 25, 2010, August 24, 2010, September 14, 2010.

¹⁴ Testimony of Marcie Roth, Director, Office of Disability Integration and Coordination, Federal Emergency Management Agency, before House Committee on Homeland Security (June 15, 2010), pp. 2-3.

¹⁵ U.S. Access Board, *Recommendations of the Accessible Emergency Transportable Housing Advisory Committee (October 2008)*, available at www.access-board.gov/eth/report/hm#charter.

these additional units, or say whether a minimum percentage must be accessible. As the draft Guide is currently written, it would be consistent with the Guide for FEMA to order tens of thousands of additional temporary housing units from manufacturers without requiring *any* to be accessible. That is clearly unacceptable.

We recognize that FEMA's procurement contracts may address the issue by requiring a minimum percentage of additional units ordered to be accessible. Even if that is the case, however, FEMA's temporary housing policy should contain the minimum percentage of additional units ordered that must be accessible. This information should be stated in the policy because: (1) the procurement contracts with housing manufacturers may be modified at any time and will eventually expire, and any minimums contained in the contracts could disappear at that point; (2) the public does not know what those contracts say; and (3) FEMA may purchase some temporary housing units on the open market, as opposed to ordering them from manufacturers, and the minimums contained in the procurement contracts may not apply to those units. If the procurement contracts do not contain a minimum percentage of housing units ordered that must be accessible, it is even more critical that FEMA's policy contain such a requirement, or at a minimum, include guidance or a framework for staff to determine how many or what percentage of additional units ordered should be accessible.

In a November 11, 2010 call with advocates, Steven Miller seemed to imply that FEMA plans to decide how many additional accessible temporary housing units it will order based on an assessment of the needs of the displaced persons affected by the particular disaster. It is obviously unworkable for FEMA to wait until the agency knows the exact number of families who accessible temporary housing after a disaster before placing orders for additional accessible units beyond those in FEMA's baseline inventory. The Guide should address the issue.

The draft Guide does not require any alternative temporary housing units to be accessible to people with disabilities.

The draft Guide requires FEMA to use innovative alternative forms of temporary housing and states that FEMA is exploring alternative housing options through the Joint Housing Solutions Work Group and Alternative Housing Pilot Program (p. 7), but says nothing about accessible alternative housing. The Guide should make clear that alternative housing provided by FEMA must and will include accessible alternative housing.

It is particularly important for the Guide to require some of the alternative housing provided to be accessible, because other FEMA documents do not. FEMA's 2010 Temporary Housing Unit Assesment Readiness Reports, which contain numbers of preferred and actual housing units in FEMA's monthly inventory by type of unit, have columns for accessible and other manufactured housing, accessible and other park models, and accessible and other travel trailers, but only a single column for "alternative housing units," with no column for accessible alternative units. This is troubling. The preferred and actual inventory for alternative housing is listed zero units in the 2010 reports; the column is evidently a placeholder for a time when alternative units will be included in FEMA's standard inventory, but there is no placeholder for

accessible alternative housing.

The draft Guide does not address the need for group housing sites to meet the needs of people with disabilities.

Many people displaced by Katrina and Rita did not own property on which to place a trailer, and their only option was to live in group trailer sites. After Katrina and Rita, more than 20,000 households lived in trailers at more than 500 group sites.¹⁶ Given the continued shortage of affordable low-income housing in the U.S., it is likely that in the event of a major future disaster, a significant number of displaced persons would need to live at group sites again. And, given the extremely limited availability of affordable low-income housing that is accessible to people with disabilities, it is likely that many of those individuals will have disabilities.

Some of the group trailer sites that opened after Katrina and Rita did not have trailers that were accessible to people with disabilities, and, in many, common areas and amenities (e.g., garbage bins, mail boxes, and laundry rooms) were not accessible. As part of the settlement in *Brou v. FEMA*, FEMA agreed to ensure that, with the exception of one site, at least 5 percent of the trailers at all group sites in Louisiana and Mississippi with 20 or more trailers were accessible, and agreed to make common areas and routes at group sites accessible.

The draft Guide mentions group housing sites, but is silent on whether those sites will be required to have accessible temporary housing units in them, and if so, the minimum number or percentage of units that must be accessible. It also silent on whether common areas of group sites will be required to be accessible. FEMA's silence on this issue is troubling, as previous policies addressed these issues, albeit inadequately. FEMA's 2006 Interim Policy required group trailer sites built by or on behalf of FEMA to have accessible routes and accessible common areas, and requires at least 15 percent of the lots in each site to be able to accommodate an accessible housing unit. While the policy also failed to require a minimum number or percentage of the housing units at group sites to be accessible, it did more to address the needs of people with disabilities at group sites than the draft Guide.¹⁷ The U.S. Access Board's Emergency Transportable Federal Housing Federal Advisory Committee recommended that the Access Board require 10 percent of the trailers at group sites be accessible.¹⁸ Even though the Access board has not yet issued a final standard, FEMA could adopt the 10 percent recommendation on

¹⁶ U.S. Government Accountability Office, *Disaster Assistance: Federal Efforts to Assist group Site Residents with Employment, Services for Families with Children, and Transportation*, GAO-09-81 (December 2008), pp. 3, 13.

¹⁷ 2006 Interim Policy.

¹⁸ U.S. Access Board, Emergency Transportable Federal Housing Federal Advisory Committee, *Recommendations for Emergency Transportable Housing* (Oct. 2008), available at www.access-board.gov/eth/report/htm#charter.

an interim basis. Evidently it has not done so.

On November 11, Steven Miller indicated to advocates that FEMA would be issuing a document in 2011 for public comment that would address accessibility requirements for group sites. We are pleased to hear this, but believe that all of these policies and standards should be located in a single policy, not spread across numerous documents.

The draft Guide does not require FEMA to inform displaced persons of their right to accessible temporary housing.

After Hurricanes Rita and Katrina, many households with family members with disabilities were not aware that they had a right to accessible temporary housing or aware that they could request accessible temporary housing from FEMA. As a result, many who needed accessible housing did not request it. Displaced persons were provided with inconsistent information about whether accessible temporary housing was available, and inconsistent information on whether FEMA would replace inaccessible units with an accessible ones. To remedy these deficiencies, the *Brou* settlement required FEMA to send out a notice to all class members informing them of the right to accessible temporary housing, informing them of the types of accessibility features that could be provided in housing if needed, and informing them of who to contact to request such housing. In addition, FEMA publicized the availability of accessible housing and the phone number to call to request it to television and radio stations, print media, on FEMA's website, and by other means

The draft Guide does not discuss FEMA's obligation to notify individuals eligible for temporary housing of the right to accessible housing, or say how, when, and by whom such notice will be provided. It should. In addition, standard notice language should be attached to the Guide.

The draft Guide does not require FEMA to screen displaced persons to determine whether they need accessible temporary housing.

After Hurricanes Katrina and Rita, FEMA had no process in place to determine whether displaced persons had disabilities and needed accessible temporary housing. The failure to have such a process in place, and the failure to have standardized questions and a means to record this information in FEMA's database, caused tremendous problems. The *Brou v. FEMA* settlement developed a screening procedure designed to identify whether an individual or household member had a disability and identify the particular types of accessibility features needed in the temporary housing unit. FEMA adopted the same approach in its 2006 Interim Policy, which had a standardized list of questions on disabilities for the pre-placement interview.¹⁹

The draft Guide says nothing about the need to determine whether those eligible for

¹⁹ FEMA 7006 Interim Policy, p. 3, Attachment A.

temporary housing have disabilities and need accessible temporary housing, much less contain a list of questions that should be asked. The draft should be revised to require FEMA to screen all individuals during the pre-placement interview for disabilities and need for accessible housing, and it should include a list of questions, like the questions in the 2006 Interim Policy or those attached to the *Brou* settlement.

FEMA should use travel trailers as accessible temporary housing for people with disabilities or others only when there are no other temporary housing options that meet a family's needs.

_____The draft Guide indicates that FEMA intends to use travel trailers for temporary housing after a disaster. (p. 6) This is a reversal from FEMA's 2008 position.²⁰ FEMA's 2008 Interim Direction on the Use of Temporary Housing Units states:

Recreational vehicles are NOT regulated by HUD, as this form of accommodation is designed for short-term recreational habitation, not housing. Accordingly, FEMA will NOT offer *travel trailers* as temporary housing option in future disasters. FEMA will only consider use of travel trailers at the request of the State in extraordinary disaster conditions as a last resort, when no other form of interim housing is available. Further, in these extraordinary conditions, FEMA will only authorize travel trailers for use ONLY on private property (i.e., not in group sites); ONLY for a maximum of six months' occupancy (i.e., when the level of damage to the occupant's pre-disaster dwelling can be repaired in less than six months); and only after the State has determined for itself the acceptable level of formaldehyde.²¹

The draft Guide mentions travel trailers without any limitation on their use. FEMA has not explained why it has change position on this issue.

In addition to the concerns about the use of travel trailers identified by FEMA in 2008, we have the following concerns:

- 1) The Centers for Disease Control testing found that travel trailers had significantly higher average formaldehyde levels than manufactured housing or park models;²²

²⁰ "FEMA Interim Direction on the Use of Temporary Housing Units," (revision effective March 10, 2008), p. 1.

²¹ "*FEMA Interim Direction on the Use of Temporary Housing Units*," ("FEMA 2008 Interim Direction") (revision effective March 10, 2008), p. 1.

²² Centers for Disease Control, *Final Report on Formaldehyde Levels in FEMA-Supplied Travel Trailers, Park Models, and Mobile Homes*, (July 2, 2008), p. 13, available at www.cdc.gov/nceh/ehhe/trailerstudy/pdfs/FEMAFinalReport.pdf.

2) Because travel trailers are not considered temporary housing, they are regulated by state transportation authorities, not HUD, there are no federal standards limiting the amount of formaldehyde in travel trailers;

3) Although FEMA has adopted requirements in its procurement contracts for manufactured housing, park models, and alternative housing that these units must be manufactured to have formaldehyde emission levels below .016 ppb,²³ it is not clear that FEMA requires the travel trailers it purchases through procurement contracts or on the open market to be manufactured to meet the .016 ppb level.

We recognize that travel trailers have a role to play in meeting post-disaster temporary housing needs, because they may be the only trailers that fit on small lots. The draft Guide should limit their use to situations in which other types of housing cannot be used on the property.

Although the draft Guide doesn't address the issue, other FEMA documents indicate that FEMA also intends to provide travel trailers to individuals with disabilities who need accessible temporary housing. FEMA's Temporary Housing Unit Monthly Readiness Reports from January through September of 2010 indicate that among the mix of housing options FEMA intends to have on hand are "UFAS Travel Trailers."²⁴ In fact, travel trailers are too small to comply with some UFAS standards. While it is possible to ramp the entrance of a travel trailer, it is not possible for travel trailers to meet other UFAS standards, including some of the standards of particular importance to wheelchair users. If an individual with a disability needs a ramp but no other accessibility features, it might be appropriate to provide that individual with a travel trailer. For individuals who need other accessibility features, such as room to transfer from a wheelchair to a bed or chair, wheelchair turn space, or accessible toileting and bathing facilities, a travel trailer is inappropriate.

The Guide should make clear that travel trailers cannot meet the needs of many people with disabilities who need accessible housing and should not be used for that purpose unless they can meet the accessibility needs of the individual with a disability.

The draft Guide's approach to acceptable levels of formaldehyde is an improvement over some earlier FEMA documents and should be retained in the final Guide.

_____The draft Guide provides:

²³ FEMA 2008 Interim Direction, p. 1.

²⁴ *How-To Guide for the THU Readiness Reports*, January 23, 2010, February 23, 2010, March 23, 2010, April 23, 2010, June 25, 2010, August 24, 2010, September 14, 2010.

FEMA requires, by contract, all procured units to meet strict Indoor Quality manufacturing specifications; currently, some states have established acceptable levels of less than .016 parts per million (16 ppb). If a state level is not specified, FEMA may still use units from inventory or procure units from commercial sources, as required, but such units must have been tested and met or exceeded FEMA procurement specifications for indoor air quality.²⁵

FEMA's 2009 National Disaster Housing Plan indicated that while FEMA's manufacturing contracts required new units to have less than .0116 parts per million (ppm) of formaldehyde, if testing of the unit before delivery indicated a level that exceeded that standard, FEMA would deliver the unit to a state if the unit met the state's formaldehyde standard, and FEMA's air exchange control standards.²⁶ Fourteen states have indoor formaldehyde standards that are more lax than FEMA's standard.²⁷ Thus the 2009 plan would have allowed FEMA to expose displaced persons in these states to higher levels of formaldehyde than FEMA deems acceptable, as long as it was acceptable to the state. Fortunately, the draft Guide has abandoned this approach. The approach taken in the draft should be used in the final Guide.

The draft Guide should consider accessibility in the provision of shelter and housing other than temporary manufactured housing.

In addition to providing manufactured housing as temporary housing assistance, the draft Guide discusses other types of housing assistance, including emergency sheltering (which is primarily the responsibility of States), financial assistance for rent, and alternative forms of direct housing. The Guide should address accessibility issues regarding these other forms of assistance. Specifically:

1) Shelters: While States have primary responsibility for emergency sheltering, there is a role for FEMA in increasing States' capacity to make shelters accessible to people with disabilities. Many shelters in Louisiana have been in sports arenas, schools, and other structures that do not have accessible features, particularly for bathing and showering. FEMA should provide backup portable accessible showers and restrooms that can be deployed to shelters in disasters. In addition, States may not have sufficient resources for sign language interpreters for deaf evacuees. FEMA should provide backup assistance in the form of video communications equipment that can be deployed as needed in a disaster.

2) Financial Assistance for Rent: The FEMA helpline and the National Housing Locator

²⁵ Draft Guide, p. 6.

²⁶ *FEMA 2009 Disaster Housing Plan*, p. 4.

²⁷ Those states are Alaska, Illinois, Indiana, Iowa, Minnesota, New Mexico, Oregon, Tennessee, Texas (for existing units only), Washington, and West Virginia.

System should maintain records of the physical accessibility of units that are available for rent and should elicit information about the accessibility needs of individuals who contact them for housing assistance. FEMA should make readily available information about the availability of reasonable accommodations, such as an increase in the Fair Market Rent if necessary to accessible housing.

3) Alternative Forms of Direct Housing. Principles of universal design should be required in all forms of new direct housing.

Recommendations

FEMA should make the draft Guide into a comprehensive written policy detailing what it intends to do to meet the temporary housing needs of people with disabilities and others after a disaster. The policy should be adequate and defensible, and should provide:

- that FEMA will meet provide accessible temporary housing to those who need it after a disaster;
- the number of temporary housing units, and the number or percentage of accessible temporary housing units, that may be needed overall in the event of a major disaster;
- the number of temporary housing units, and the number or percentage of accessible housing units, FEMA must have in its inventory to meet the needs of individuals with disabilities and others after a major disaster;
- how quickly the housing units in FEMA's existing inventory can be deployed, and how quickly additional housing units that FEMA may need to purchase or order through procurement contracts can be manufactured and deployed;
- the number or percentage of housing units that FEMA may need to order from procurement contracts that must be accessible to people with disabilities;
- that if FEMA uses alternative housing as temporary housing that it will purchase and provide alternative temporary housing that is accessible;
- that group temporary housing sites must have accessible common areas and paths of travel;
- that minimum number or percentage of accessible housing units that group temporary housing sites must have;
- that FEMA will inform everyone who applies for temporary housing of the right to accessible temporary housing if an individual or household member has a

disability and needs accessible housing, using notice language included in the Guide;

- that FEMA will offer screening to everyone who applies for accessible housing that will help to determine whether an individual or household member has a disability and may need accessible housing, using screening questions included in the Guide;
- that FEMA will not use travel trailers for temporary housing after a disaster except in situations in which other types of housing cannot be used on the property;
- that FEMA will not use travel trailers for temporary housing for people with disabilities unless a travel trailer can meet all of the accessibility needs of the individual with a disability;
- that FEMA will arrange for testing of formaldehyde levels of each temporary housing unit before delivering it to a state and will not deliver the unit, including a travel trailer, if the formaldehyde emission level is .016 ppm or higher;
- that FEMA will provide backup portable accessible showers and restrooms that can be deployed to shelters in disasters and backup assistance in the form of video communications equipment that can be deployed as needed in a disaster;
- that FEMA will make readily available information about the availability of reasonable accommodations, such as an increases in the FMR if necessary to locate accessible housing; and
- that principles of universal design should be required in all forms of new direct housing.

Thank you for giving us an opportunity to submit these comments.

Sincerely,

Cary LaCheen
National Center for Law
and Economic Justice

Nell Hahn
Jeanne Abadie
The Advocacy Center

